

HOUSE No. 1862

By Mr. Walsh of Boston, petition of Martin J. Walsh and others relative to workers' compensation. Labor and Workforce Development.

The Commonwealth of Massachusetts

PETITION OF:

Martin J. Walsh
Jennifer L. Flanagan

Angelo J. Pappalardo, Jr.
Joseph R. Driscoll

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO WORKER'S COMPENSATION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 36 of Chapter 152 of the General Laws is
2 hereby amended by striking out subsection (k) and substituting in its
3 place the following paragraph:—

4 “Subsection (k). For bodily disfigurement, an amount which,
5 according to the determination of the member or reviewing board, is
6 a proper and equitable compensation, not to exceed the average
7 weekly wage in the Commonwealth at the date of injury multiplied
8 by twenty-nine; which sum shall be payable in addition to all other
9 sums due under this section.”

1 SECTION 2. Section 33 of Chapter 152 of the General Laws is
2 hereby amended by striking out the word “four” and inserting in
3 place thereof the word “eight.”

1 SECTION 3. Chapter 152 of the General Laws, as now appearing,
2 is hereby amended by striking out Section 35 as so appearing, and
3 inserting in place thereof, the following section:—

4 “Section 35. While the incapacity for work resulting from the
5 injury is partial, during each week of incapacity, the insurer shall

6 pay the injured employee a weekly compensation equal to sixty per-
7 cent of the difference between his or her average weekly wage
8 before the injury and the weekly wage he or she is capable of
9 earning after the injury. An insurer may reduce the amount paid to
10 an employee under this section to the amount at which the employ-
11 ee's combined weekly earnings and benefits are equal to two times
12 the average weekly wage in the Commonwealth at the time of such
13 reduction. The total number of weeks of compensation due the
14 employee under this section shall not exceed two hundred sixty; pro-
15 vided however, that this number may be extended to five hundred
16 twenty if an insurer agrees or an administrative judge finds that the
17 employee has, as a result of a personal injury under this chapter, suf-
18 fered a permanent loss of seventy-five percent or more of any bodily
19 function or sense specified in paragraph (a), (b), (e), (f), (g), or (h) of
20 subsection (1) of Section 36, developed a permanently disabling
21 occupational disease which is of a physical nature and cause, or has
22 returned to employment pursuant to an Individual Written Rehabili-
23 tation Plan pursuant to Section 30(H); or has been found unsuitable
24 for vocational rehabilitation by the Office of Education and Voca-
25 tional Rehabilitation; or has returned to employment at less than his
26 pre-injury average weekly wage; or has been found by an adminis-
27 trative judge to have a permanent partial incapacity. Where applic-
28 able, losses under this section shall be determined in accordance
29 with standards set forth in the American Medical Association Guides
30 to the Evaluation of Permanent Impairments. Where the insurer
31 agrees or the administrative judge finds such permanent partial dis-
32 ability as is described in this paragraph, the total number of weeks
33 the employee may receive benefits under this section shall not
34 exceed five hundred twenty. Where there has been no such agree-
35 ment or finding the number of weeks the employee may receive ben-
36 efits under these sections shall not exceed three hundred sixty-four.”